

STATE OF IOWA
BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES

IN THE MATTER OF:)	
)	
Donald Joseph Kirk)	CONSENT AGREEMENT
907 E. Locust, Apt. 5)	AND ORDER
Davenport, IA 52803)	
)	
REACTIVATION APPLICANT)	

The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Donald Joseph Kirk (Applicant) enter into this Consent Agreement and Order (Agreement) pursuant to Iowa Code sections 17A.10(1) 147.3, 157.3, 272C.3, and 645 Iowa Administrative Code rule 60.17.

1. On April 13, 2006, Applicant applied for reactivation of his Iowa cosmetology license. Applicant held license number 843-46066 to practice cosmetology in the State of Iowa; but allowed his license to lapse on March 31, 2004.

2. Applicant was granted a deferred judgment, pursuant to Iowa Code 907.3, for the offenses of Delivery of a Controlled Substance (2-counts), a class C-Felony charge in Muscatine, Iowa District Court on November 4, 2005. Applicant was subsequently placed on a three-year term of probation supervision, which is scheduled to end on November 4, 2008. Upon successful completion of the deferred period, the case will be expunged from the record.

3. Prior to the arrest, the applicant attended New Horizon's Intensive Outpatient Treatment Program from April 7, 2005 until April 26, 2005. He was referred to an outside agency April 26, 2005, and transferred to the Center for Alcohol and Drug Services (CADS) Inpatient Treatment Program at the Country Oaks Facility, Davenport Iowa on April 28, 2005. He remained in CADS until May 27, 2005.

4. After his arrest for the charges stated above, he returned to CADS on August 19, 2005. He was successfully discharged from the program on December 19, 2005 and he remains in a Transitional Housing (3/4-House) Program. The applicant is attending weekly Relapse Prevention aftercare groups at CADS and he additionally attends three to four local AA/NA groups weekly. He has maintained sobriety/drug free for one year.

5. Upon approval of this Agreement by the Board, Applicant's cosmetology license shall be subject to a period of probation concurrent with the probation currently being served under the supervision of the Judicial District Department of Correctional Services. The probationary period shall commence on the execution date of this Agreement. The execution date is that date which accompanies the Board Chairperson's

or designee's signature. During the probationary period, Applicant shall comply with the following terms:

a. Applicant shall fully comply with all relevant statutes and administrative rules in the course of his practice as a licensed cosmetologist including compliance with all license renewal and continuing education requirements;

b. Applicant shall fully comply with all conditions of probation by the Seventh Judicial District Department of Correctional Services, including urinalysis tests;

c. Upon request of the Board, Applicant shall appear before the Board to report on the status of his practice as a cosmetologist and to answer any questions or concerns the Board may have regarding his probation. The Board shall provide Applicant with reasonable notice of the date, time, and place for any requested appearance. Applicant agrees that any such appearance would be governed by 645 Iowa Administrative Code rule 9.7 and that he waives any and all objections to the members of the Board both participating in the appearance and later participating as decision makers in a contested case proceeding.

6. Any failure by Applicant to comply with the terms and conditions of this Agreement shall subject Applicant to licensee disciplinary action which could be initiated by the Board through the filing of a statement of charges with a hearing to be held on the merits.

7. Upon full compliance with all terms and conditions of the probation prescribed by this Agreement, Respondent's license to practice as a cosmetologist in the state of Iowa shall be restored to its full privilege free and clear of all probationary restrictions.

8. This Agreement is subject to approval by the Board. If the Board fails to approve this Agreement, it shall be of no force or effect on either party.

9. This Agreement is voluntarily submitted by Applicant to the Board for its consideration.

10. This Agreement is a public record available for inspection and copying in accordance with Iowa Code section 272C.3(4).

11. This Agreement shall be part of the permanent record of the Applicant and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of future violations.

12. This Agreement shall not be binding as to any existing or new complaints received by the Board.

WHEREFORE, the terms of this Consent Agreement and Order are agreed to and accepted by the Iowa Board of Cosmetology Arts and Sciences and Applicant.

This consent agreement and order is approved by the board on August 2, 2006.